ADVISORY

Annual EEO Public File Report Deadline for Stations in Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia, and Wyoming

By Scott R. Flick, Elizabeth E. Craig, and Adam J. Sandler

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June 1 is the deadline for broadcast stations licensed to communities in **Arizona, the District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia, and Wyoming** to place their Annual EEO Public File Report in their Public Inspection File and post the report on their station website.

Under the FCC's EEO Rule, all radio and television station employment units ("SEUs"), regardless of staff size, must afford equal opportunity to all qualified persons and practice nondiscrimination in employment.

In addition, those SEUs with five or more full-time employees ("Nonexempt SEUs") must also comply with the FCC's three-prong outreach requirements. Specifically, Nonexempt SEUs must (i) broadly and inclusively disseminate information about every full-time job opening, except in exigent circumstances, (ii) send notifications of full-time job vacancies to referral organizations that have requested such notification, and (iii) earn a certain minimum number of EEO credits based on participation in various non-vacancy-specific outreach initiatives ("Menu Options") suggested by the FCC, during each of the two-year segments (four segments total) that comprise a station's eight-year license term. These Menu Option initiatives include, for example, sponsoring job fairs, participating in job fairs, and having an internship program.

Nonexempt SEUs must prepare and place their Annual EEO Public File Report in the Public Inspection Files and on the websites of all stations comprising the SEU (if they have a website) by the anniversary date of the filing deadline for that station's license renewal application. The Annual EEO Public File Report summarizes the SEU's EEO activities during the previous 12 months, and the licensee must maintain adequate records to document those activities.

For a detailed description of the EEO Rule and practical assistance in preparing a compliance plan, broadcasters should consult **The FCC's Equal Employment Opportunity Rules and Policies – A Guide for Broadcasters** published by Pillsbury's Communications Practice Group.

Deadline for the Annual EEO Public File Report for Nonexempt Radio and Television SEUs

Consistent with the above, **June 1, 2025** is the date by which Nonexempt SEUs of radio and television stations licensed to communities in the states identified above, including Class A television stations, must (i) place their Annual EEO Public File Report in the Public Inspection Files of all stations comprising the SEU, and (ii) post the Report on the websites, if any, of those stations. Once the new Report is posted on a station's website, the prior year's Report may be removed from that website.

LPTV stations are also subject to the broadcast EEO Rule, even though LPTV stations are not currently required to maintain a Public Inspection File. Instead, these stations must maintain a "station records" file containing the station's authorization and other official documents and must make it available to an FCC inspector upon request. Therefore, if an LPTV station has five or more full-time employees, or is otherwise part of a Nonexempt SEU, it must prepare an Annual EEO Public File Report and place it in its station records file.

These Reports will cover the period from June 1, 2024 through May 31, 2025. However, Nonexempt SEUs may "cut off" the reporting period up to ten days before May 31, so long as they begin the next annual reporting period on the day after the cut-off date used in the immediately preceding Report. For example, if the Nonexempt SEU uses the period June 1, 2024 through May 21, 2025 for this year's report (cutting it off up to ten days prior to May 31, 2025), then next year, the Nonexempt SEU must use a period beginning May 22, 2025 for its report.

Deadline for Performing Menu Option Initiatives

The Annual EEO Public File Report must contain a discussion of the Menu Option initiatives undertaken during the preceding year. The FCC's EEO Rule requires each Nonexempt SEU to earn a minimum of two or four Menu Option initiative-related credits during each two-year segment of its eight-year license term, depending on the number of full-time employees and the market size of the Nonexempt SEU.

- Nonexempt SEUs with between five and ten full-time employees, or that are located in "smaller markets," must earn at least two Menu Option credits over each two-year segment.
- Nonexempt SEUs with 11 or more full-time employees and which are *not* located in "smaller markets" must earn at least four Menu Option credits over each two-year segment.

The SEU is deemed to be located in a "smaller market" for these purposes if the communities of license of the stations comprising the SEU are (1) in a county outside of all metropolitan areas, or (2) in a county located in a metropolitan area with a population of less than 250,000 persons.

Because the filing date for license renewal applications varies depending on the state in which a station's community of license is located, the time period in which Menu Option initiatives must be completed also varies. Radio and television stations licensed to communities in the states identified above should review the following to determine which current two-year segment applies to them:

- Nonexempt **radio** station SEUs licensed to communities in **Michigan and Ohio** must earn at least the required minimum number of Menu Option credits during the two year "segment" between June 1, 2024 and May 31, 2026, as well as during the previous two-year "segments" of their license terms.
- Nonexempt **radio** station SEUs licensed to communities in **Arizona, the District of Columbia, Idaho, Maryland, Nevada, New Mexico, Utah, Virginia, West Virginia, and Wyoming** must have earned at least the required minimum number of Menu Option credits during the two-year "segment" between June 1, 2023 and May 31, 2025, as well as during the previous two-year "segments" of their license terms.
- Nonexempt **television** station SEUs licensed to communities in **Arizona, the District of Columbia, Idaho, Maryland, Nevada, New Mexico, Utah, Virginia, West Virginia, and Wyoming** must earn at least the required minimum number of Menu Option credits during the two-year "segment" between June 1, 2024 and May 31, 2026, as well as during the previous two-year "segments" of their license terms.
- Nonexempt **television** station SEUs licensed to communities in **Michigan and Ohio** must have earned at least the required minimum number of Menu Option credits during the two-year "segment" between June 1, 2023 and May 31, 2025, as well as during the previous two-year "segments" of their license terms.

Recommendations

It is critical that every SEU maintain adequate records of its performance under the EEO Rule and that it practice overachieving when it comes to earning the required number of Menu Option credits. The FCC will not give credit for Menu Option initiatives that are not duly reported in an SEU's Annual EEO Public File Report or that are not adequately documented. Accordingly, before an Annual EEO Public File Report is finalized and made public by posting it on a station's website or placing it in the Public Inspection File, the draft document, including supporting material, should be reviewed by communications counsel.

Finally, note that the FCC is continuing its program of EEO audits. These random audits check for compliance with the FCC's EEO Rule, and audit letters are sent to approximately five percent of all broadcast stations each year. Any station may become the subject of an FCC audit at any time. For more information on the FCC's EEO Rule and its requirements, as well as practical advice for compliance, please contact any of the attorneys in **Pillsbury's Communications Practice**.